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FIFTEENTH REPORT OF THE EXECUTIVE SECRETARY PURSUANT TO ARTICLE 41 OF THE PROVISIONAL RULES FOR CLAIMS PROCEDURE

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Introduction

1. The present report identifies, pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules"), recommended corrections in the various claims categories since the fourteenth article 41 report (S/AC.26/2001/17). Chapter I of this report contains recommended corrections concerning claims in category "A", where the panel of Commissioners has concluded its work. Chapter II contains recommended corrections concerning claims in categories "D" and "E", where the panels of Commissioners continue their work. Finally, Chapter III of this report provides information concerning requests by claimants for corrections to approved awards under article 41 of the Rules, including a report of the secretariat's review to determine whether or not these requests warrant action under article 41.

I. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORY "A"

2. Recommendations for corrections to category "A" claims include the following kinds of corrections: duplicate claims; reinstatement of claims previously identified as duplicates; reinstatement of claims previously rejected; higher to lower amounts; and lower to higher amounts.

A. Duplicate claims

3. Since the fourteenth article 41 report, a total of eight claims have been found to be duplicates of other claims awarded compensation in category "A". No compensation should have been awarded for these duplicate claims.

4. Accordingly, as set forth in table 1 below, it is recommended that the awards for these claims be corrected. Table 1 identifies the countries and international organization concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 1. Category "A" corrections: duplicate claims

Country or international organization	Instalment	Number of claims affected	Amount of net effect (USD)
India	Second	1	(5,000.00)
	Fourth	1	(8,000.00)
	Fifth	5	(24,000.00)
UNHCR (Canada)	Fifth	1	(5,000.00)
Total		8	(42,000.00)

B. Reinstatement of claims previously identified as duplicates

5. One claim from Brazil, two claims from Pakistan, one claim from Sri Lanka and two claims from Yemen originally found to be duplicates should be reinstated since additional information received from these Governments shows that the claims were submitted by different individuals and are not in fact duplicates.

6. Accordingly, as set forth in table 2 below, it is recommended that the awards for these claims be corrected. Table 2 identifies the countries concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 2. Category "A" corrections: reinstatement of claims previously identified as duplicates

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Brazil	Sixth	1	2,500.00
Pakistan	Fourth	1	4,000.00
	Sixth	1	2,500.00
Sri Lanka	Sixth	1	4,000.00
Yemen	Sixth	2	6,500.00
Total		6	19,500.00

C. Reinstatement of claims previously rejected

7. Three claims from Yemen, which were erroneously rejected due to a clerical mistake, should be reinstated.

8. Accordingly, as set forth in table 3 below, it is recommended that the awards for these claims be corrected. Table 3 identifies the country concerned, the instalment to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 3. Category "A" corrections: reinstatement of claims previously rejected

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Yemen	Sixth	3	12,000.00
Total		3	12,000.00

D. Higher to lower amount

9. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that "any claimant who has selected a higher amount under category 'A' (USD 4,000 or USD 8,000) and has also filed a category 'B', 'C' or 'D' claim will be deemed to have selected the corresponding lower amount under category 'A'". One claim has been identified by the Government of India as having been filed for a higher amount in category "A" by a claimant who also has a claim in category "C".

10. Accordingly, as set forth in table 4 below, it is recommended that the award amount for the claim be corrected. Table 4 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 4. Category "A" corrections: higher to lower amount

Country	Instalment	Number of claims affected	Amount of net effect (USD)
India	Fifth	1	(1,500.00)
Total		1	(1,500.00)

E. Lower to higher amount

11. One claim from Pakistan, due to a technical computer error, was incorrectly matched with a category "C" claim, which resulted in a reduction of the award. The award should be revised to reflect the higher amount to which the claimant is entitled.

12. Accordingly, as set forth in table 5 below, it is recommended that the award amount for this claim be corrected. Table 5 identifies the country concerned, the instalments to be adjusted, the number of claims affected, and the amount of net effect of the adjustment.

Table 5. Category "A" corrections: lower to higher amount

Country	Instalment	Number of claims affected	Amount of net effect (USD)
Pakistan	Sixth	1	1,500.00
Total		1	1,500.00

F. Summary

13. The recommended corrections in category "A" concern 19 claims submitted by five Governments and one international organization with a reduction of the total amount awarded of USD 10,500. Of these claims, the total amount awarded for nine claims was decreased by USD 43,500, and the total amount awarded for ten claims was increased by USD 33,000. The recommendations for the second, fourth, fifth and sixth instalments, by country and instalment, are located in tables 1 to 5 of annex I to this report.

II. RECOMMENDED CORRECTIONS CONCERNING CLAIMS IN CATEGORIES "D" AND "E"

A. Category "D" corrections

14. Recommended corrections in category "D" concern claims that were included in the reports and recommendations of the Panel of Commissioners concerning part one of the second instalment (S/AC.26/1998/11), part two of the second instalment (S/AC.26/1998/15) and part two of the fourth instalment (S/AC.26/2000/11), which recommendations were approved by the Governing Council in its decision 55 (S/AC.26/Dec.55 (1998)), decision 59 (S/AC.26/Dec. 59 (1998)), and decision 96 (S/AC.26/Dec. 96 (2000)), respectively. The corrections proposed by the "D1" Panel of Commissioners relating to these claims are outlined below.

1. Part one of the second instalment correction

15. One claim requires correction as a clerical error resulted in the deduction of termination benefits from an award for the claimant's D6 (loss of salary) claim.

16. Another claim that requires correction was included in part one of the second instalment and was subsequently the subject of an article 41 correction, due to an increase in the related category "C" award, as reported in the seventh instalment report and recommendations made by the "D1" Panel of Commissioners. Further adjustment is required as a clerical error, arising from the incorrect addition of the D1 (mental pain and anguish) award to the D6 (loss of salary) award, resulted in an overstatement of the correct amount of the claimant's D6 award.

17. One claim requires correction as a result of a computational error that resulted in the incorrect deduction of salary received from claimant's D6 (loss of salary) award.

18. Accordingly, as set forth in table 6 below, it is recommended that the awards for these claims be corrected. Table 6 identifies the country concerned, the number of claims affected and the amount of net effect of the adjustment.

Table 6. Category "D" corrections: Part one of second instalment

Country	Number of claims affected	Amount of net effect (USD)
Australia	1	13,022.14
Jordan	1	(7,700.00)
United States	1	10,061.87
Total	3	15,384.01

2. Part two of the second instalment correction

19. One claim requires correction due to a computational error in the application of the Panel's valuation methodology in calculating the recommended award for D4 (personal property). This resulted in an overpayment.

20. Accordingly, as set forth in table 7 below, it is recommended that the award for this claim be corrected. Table 7 identifies the country concerned, the number of claims affected and the amount of net effect of the adjustment.

Table 7. Category "D" corrections: Part two of second instalment

Country	Number of claims affected	Amount of net effect (USD)
Kuwait	1	(20,978.00)
Total	1	(20,978.00)

3. Part two of the fourth instalment corrections

21. One claim requires correction as a consequence of a computational error in the calculation of compensation for the claimant's D7 (real property) award. The claim for clearing costs should have been considered separately and no depreciation should have been deducted. This resulted in an under-compensation of the claimant's loss.

22. Another claim approved in the same instalment requires correction whereby certain expenses relating to a property included in the D7 (real property) claim were incorrectly deducted resulting in the claimant being under-compensated.

23. Accordingly, as set forth in table 8 below, it is recommended that the awards for these claims be corrected. Table 8 identifies the country concerned, the number of claims affected, and the amount of net effect of the adjustment.

Table 8. Category "D" corrections: part two of fourth instalment

Country	Number of claims affected	Amount of net effect (USD)
Kuwait	2	5,536.33
Total	2	5,536.33

4. Summary

24. The recommended corrections in category "D" concern six claims, submitted by four Governments, with a reduction of the total amount awarded of USD 57.66. Of these claims, the total amount awarded for two claims was decreased by USD 28,678.00 and the total amount awarded for four claims was increased by USD 28,620.34. The recommendations for the second (part one), second (part two), and fourth (part two) instalments, by country and instalment, are located in tables 1 to 5 of annex II to this report.

B. Category "E" correction

1. "E2" third instalment correction

25. A recommended correction in category "E" concerns a claim that was included in the report and recommendations of the Panel of Commissioners concerning the third instalment of category "E2" claims (S/AC.26/1999/22), which recommendations were approved by the Governing Council in its decision 82 (S/AC.26/Dec.82 (1999)).

26. The correction concerns an overlap of claims relating to British Airways (UNCC claim number 4002267) claim for lost personal property belonging to its employees. Six of these employees had also filed individual claims for lost personal property. An amount totalling GBP 3,821.06 was awarded to the claimant for its six staff members identified as having also filed individual claims for lost personal property. This amount, equal to USD 7,264.37 should, therefore, be deducted from the amount of the award of USD 341,592.88.

27. Accordingly, as set forth in table 9 below, it is recommended that the award for this claim be corrected. Table 9 identifies the country concerned, the number of claims affected and the amount of net effect of the adjustment.

Table 9. Category "E" corrections: "E2" third instalment

Country	Number of claims affected	Amount of net effect (USD)
United Kingdom	1	(7,264.37)
Total	1	(7,264.37)

2. Summary

28. The recommended correction in category "E" concerns one claim filed by a Government with a reduction in the total amount awarded of USD 7,264.37. The recommendation for the third instalment, by country and instalment, are located in tables 1 to 2 of annex III to this report.

III. REQUESTS BY CLAIMANTS FOR ARTICLE 41 CORRECTIONS

29. During the period under review, the secretariat has continued its review of requests for corrections under article 41 of the Rules. The requests are outlined below:

(a) In the fourteenth article 41 report (S/AC.26/2001/17), considered by the Governing Council at its fortieth session, mention was made of a request from the Permanent Mission of Poland in Geneva for reconsideration of Governing Council decision 104 (S/AC.26/Dec.104 (2000)) and the associated report and recommendations of the panel of Commissioners concerning the tenth instalment of "E3" claims (S/AC.26/2000/18) with regard to a Polish company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 104 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(b) In the fourteenth article 41 report, mention was also made of a request from the Permanent Mission of Luxembourg, in Geneva for reconsideration of Governing Council decision 82 (S/AC.26/Dec.82 (1999)) and the associated report and recommendations of the panel of Commissioners concerning the third instalment of "E2" claims (S/AC.26/1999/22) with regard to a claim by a Luxembourg company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 82 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(c) On 7 May 2001, the Permanent Mission of the United States of America in Geneva requested reconsideration of Governing Council decision 116 (S/AC.26/Dec.116 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the seventeenth instalment of "E3"claims (S/AC.26/2001/2) with regard to one American company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of

Governing Council decision 116 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(d) On 13 May 2001, the Kuwaiti Public Authority for the Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC") requested reconsideration of Governing Council decision 121 (S/AC.26/Dec.121 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the second instalment of "F3" claims (S/AC.26/2001/7) with regard to two claims. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 121 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claims in question;

(e) On 11 June 2001, the Permanent Mission of the Republic of Hungary in Geneva requested reconsideration of Governing Council decision 87 (S/AC.26/Dec. 87 (2000)) and the associated report and recommendations of the "E2" panel of Commissioners concerning the fourth instalment of "E2" claims (S/AC.26/2000/2) with regard to one Hungarian company. The response of the Executive Secretary to the request filed by the Government of Hungary has not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claim in question and, as appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's upcoming article 41 reports to the Governing Council;

(f) On 27 June 2001, the Sudanese Compensation Commission and the secretariat held a meeting to consider a requested reconsideration of Governing Council decision 82 (S/AC.26/Dec. 82 (1999)) and the associated report and recommendations of the panel of Commissioners concerning the third instalment of "E2" claims (S/AC.26/1999/22) with regard to one Sudanese company. Having carefully reviewed all aspects of this request, the Executive Secretary has concluded that no correction of Governing Council decision 82 is necessary and that no action pursuant to article 41 of the Rules is warranted with regard to the claim in question;

(g) On 28 June 2001, a British company wrote directly to the secretariat requesting reconsideration of Governing Council decision 115 (S/AC.26/Dec.115 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the sixth instalment of "E2" claims (S/AC.26/2001/1). As this request was submitted directly to the secretariat by the claimant, the request was sent to the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland in Geneva with a note requesting that the request be submitted, in accordance with the Rules, through the Permanent Mission;

(h) On 3 July 2001, the Permanent Mission of the State of Bahrain in Geneva requested reconsideration of Governing Council decision 115 (S/AC.26/Dec.115 (2001)) and the associated report and recommendations of the panel of Commissioners concerning the sixth instalment of "E2" claims (S/AC.26/2001/1) with regard to one Bahraini company. The response of the Executive Secretary to the request filed by the Government of Bahrain has not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claim in question and, as

appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning this request, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's subsequent article 41 reports to the Governing Council;

(i) During the period under review, PAAC also forwarded to the secretariat requests for clarification and reconsideration of Governing Council decisions 108 (S/AC.26/Dec.108 (2000)) and 118 (S/AC.26/Dec.118 (2001)) and the associated reports and recommendations of the panel of Commissioners concerning the tenth (S/AC.26/2000/22) and twelfth (S/AC.26/2001/4) instalments of "E4" claims, respectively, with regard to three Kuwaiti corporate claimants. The responses of the Executive Secretary to the requests filed by PAAC (relating to the reports and recommendations for the tenth and twelfth instalments of the "E4" claims) have not yet been conveyed to the claimant country due to the fact that the secretariat's review of the specific claims in question and, as appropriate, consultations with the respective panel of Commissioners, remain ongoing. Details concerning these requests, and the Executive Secretary's recommendations to the Governing Council with respect thereto, will be contained in the Executive Secretary's subsequent article 41 reports to the Governing Council.

Annex I

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "A" CLAIMS

1. Based on the recommended corrections reported in paragraphs 3-13 of this report, supra, the category "A" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Second instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
India	50,847,500.00	50,842,500.00

Table 2. Fourth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
India	146,253,000.00	146,245,000.00
Pakistan	22,581,000.00	22,585,000.00

Table 3. Fifth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
India	147,546,000.00	147,520,500.00
UNHCR (Canada)	55,000.00	50,000.00

Table 4. Sixth instalment category "A" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
Brazil	619,000.00	621,500.00
Pakistan	46,235,500.00	46,239,500.00
Sri Lanka	35,559,000.00	35,563,000.00
Yemen	1,841,500.00	1,860,000.00

2. Based on the above corrections, the revised category "A" claim total recommended awards by instalment are as follows:

Table 5. Recommended corrected total awards for category "A" claims

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Second	641,213,500.00	641,208,500.00	(5000)
Fourth	732,568,500.00	732,564,500.00	(4000)
Fifth	782,623,000.00	782,592,500.00	(30,500)
Sixth	315,408,000.00	315,437,000.00	29,000

Annex II

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "D" CLAIMS

1. Based on the recommended corrections reported in paragraphs 14 to 24 of this report, supra, the category "D" claims aggregate corrected awards by instalment, per country, are as follows:

Table 1. Second instalment (part one) category "D" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
Australia	58,557.00	71,579.14
Jordan	1,103,866.01	1,096,166.01
United States	862,702.41	872,764.28

Table 2. Second instalment (part two) category "D" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
Kuwait	50,056,931.00	50,035,953.00

Table 3. Fourth instalment (part two) category "D" claims corrections

Country or international organization	Previous total award (USD)	Corrected total award (USD)
Kuwait	57,659,045.08	57,664,581.41

2. Based on the above corrections, the revised category "D" claim total awards by instalment are as follows:

Table 4. Recommended corrected total awards for category "D" claims

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Second (part one)	6,879,905.06	6,895,289.07	15,384.01
Second (part two)	53,053,314.00	53,032,336.00	(20,978)
Fourth (part two)	57,659,045.08	57,664,581.41	5,536.33

Annex III

RECOMMENDED CORRECTIONS CONCERNING CATEGORY "E" CLAIMS

1. Based on the recommended corrections reported in paragraphs 25 to 27 of this report, supra, the category "E2" claim aggregate corrected award by instalment, per country, is as follows:

Table 1. Third instalment category "E2" claims corrections

Country	Previous total award (USD)	Corrected total award (USD)
United Kingdom	13,635,530.00	13,628,265.63

2. Based on the above correction, the revised category "E2" claim total awards by instalment is as follows:

Table 2. Recommended corrected total awards for category "E2" claims

Instalment	Previous total award (USD)	Corrected total award (USD)	Amount of net effect (USD)
Third	289,877,471.00	289,870,206.63	(7,264.37)